

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF BARNESBURG WATER  
ASSOCIATION, INC.

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)  
) CASE NO. 90-221  
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ALLEGED VIOLATIONS OF KRS CHAPTER 278

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O R D E R

On August 16, 1990, Barnesburg Water Association, Inc. ("Barnesburg") was directed to appear at a hearing to show cause why the Association should not be penalized, pursuant to KRS 278.990, for the Association's alleged failure to comply with KRS 278.160.

Subsequent to the initiation of this case, Barnesburg, through its counsel, contacted Commission Staff to negotiate a proposed settlement resolving the issues in this case. The proposed settlement agreement attached hereto and incorporated herein as Appendix A was filed into the record on December 17, 1990. The settlement expresses Staff and Barnesburg's agreement on a mutually satisfactory resolution of all the issues in this case.

In determining whether the results of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into account the circumstances surrounding the inadvertent cancellation of Barnesburg's tariff and

Barnesburg's willingness to resubmit that tariff in its proper form.

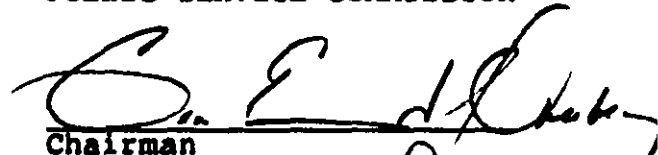
After consideration of the proposed settlement agreement and being otherwise sufficiently advised, the Commission finds that the proposed settlement agreement is in accordance with the law and does not violate any regulatory principal. This settlement agreement is a product of serious arms-length negotiations among capable, knowledgeable parties, is in the public interest and results in a reasonable resolution of this case.

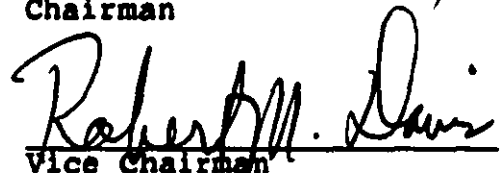
IT IS THEREFORE ORDERED that the settlement agreement is hereby adopted and approved in its entirety as a reasonable resolution to the issues in this case. Barnesburg shall adhere to and comply with all provisions of the settlement agreement.

IT IS FURTHER ORDERED that Barnesburg shall refile its tariff, within 20 days of the date of this Order, to include rates approved in Commission Case No. 5590 for 1 and 2 inch meter sizes.

Done at Frankfort, Kentucky, this 10th day of January, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 90-221 DATED January 10, 1991

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF BARNESBURG WATER  
ASSOCIATION, INC.

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ALLEGED VIOLATIONS OF KRS CHAPTER 278

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SETTLEMENT AGREEMENT

WHEREAS, Barnesburg Water Association, Inc. by Order of the Commission dated August 16, 1990 was directed to appear at a hearing schedule September 21, 1990 in order to show cause why the district should not be penalized pursuant to KRS 278.990 for the association's alleged failure to comply with KRS 278.160 for assessing a service charge to its customers that has not been previously approved by this Commission, and for allegedly charging rates which were not authorized or approved by this Commission for both 1- and 2-inch meter sizes; and

WHEREAS, the association, with counsel, and counsel for the Commission met at a prehearing conference and reached a settlement in order to resolve the outstanding show cause order;

NOW, THEREFORE, be it resolved that:

1. Barnesburg Water Association was authorized by Commission Order dated November 17, 1971 in Case No. 5590 to charge tap on fees and to make minimum monthly rate charges by meter size including minimum monthly charges for one-inch and two-inch meters.

2. Barnesburg's tariff effective February 12, 1973 and attached hereto and incorporated herein as Exhibit 1 to this agreement was duly filed and accepted by the Public Service Commission pursuant to the Commission's Order in Case No. 5590.

3. Pursuant to the Commission's Order in Case No. 7334-1, Order dated August 15, 1982, Barnesburg filed its first Revised Sheet No. 1 reflecting a purchased water adjustment from its supplier and cancelled its Sheet No. 1 of the 1973 tariff thereby inadvertently and unknowingly cancelling its rates for 1- and 2-inch meter sizes.

4. In response to those allegations that Barnesburg is not authorized by the Commission to charge those customers having one-inch and two-inch meters anything other than the rate approved for a residential or 3/4 inch meter, Barnesburg has advised that the association merely uses the approved rate of \$7.52 for 3/4 inch meter and projects that rate pro rata for the 1-inch and 2-inch meter sizes always using the constant rate per thousand gallons.

5. As a result of using the constant rate per thousand gallons to project a rate for 1- and 2-inch meter sizes no customer of Barnesburg was overcharged on the minimum bill.

6. Barnesburg, in responding to the allegations contained in the Commission's Order of August 16, 1990, has stated that no customer has ever been charged a service charge for having a service contractor read a meter, although the billing card used by the water association states that customers who fail to read their meter three months in succession may incur a service charge.

7. The parties hereto agree to settle the herein action on the following conditions:

(a) The Staff agrees that they will not recommend a penalty over the meter reading charge because it has not heretofore been employed by Barnesburg against its customers;

(b) Barnesburg agrees that it shall not impose or assess any meter reading service charge until such time as it receives Commission approval therefore;

(c) The Staff agrees that they will not recommend a penalty for Barnesburg charging its customers based on 1- and 2-inch meter sizes since the absence of a tariff on these meters was due to inadvertence, since a constant rate per thousand gallons was employed, and since no customer was overcharged as a result; and

(d) Barnesburg agrees that it shall bill customers utilizing the precise charges under tariffs approved by the Commission until such time as different tariffs are approved.

8. This Settlement Agreement is submitted for purposes of this case only and is not deemed binding upon the parties hereto in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving Barnesburg or any other utility.

9. If the Commission issues an order adopting this Settlement Agreement in its entirety, Barnesburg agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin County Circuit Court from such order.

10. If this Settlement Agreement is not adopted in its entirety, Barnesburg reserves the right to withdraw from it and require that hearings go forward upon all or any matters involved herein, and that in such event the terms of this agreement shall not be deemed binding upon the signatories hereto, nor shall such agreement be admitted into evidence or referred to or relied on in any manner by any signatory hereto.

11. All of the parties hereto agree that the foregoing Settlement Agreement is reasonable and in the best interest of all concerned, and urge that the Commission adopt this agreement in its entirety.

AGREED TO BY:

Bruce J. Clark  
Hon. Bruce Clark on behalf of  
Barnesburg Water Association

12/14/90  
Date

Rebecca Goodman  
Hon. Rebecca Goodman on behalf  
of Commission Staff

12/14/90  
Date